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Secretary for
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California Regional Water Quality Control Board
North Coast Region
John W. Corbett, Chairman

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Arnold
Schwarzenegger
Governor

June 18, 2007

In the Matter of

Water Quality Certification

for the

BUREAU OF RECLAMATION – TRINITY RIVER RESTORATION PROGRAM
INDIAN CREEK REHABILITATION SITE
WDID NO. 1A07042WNTR

APPLICANT: U.S. Bureau of Reclamation, Trinity River Restoration Program
RECEIVING WATER: Trinity River
HYDROLOGIC UNIT: Douglas City Hydrologic Subarea 106.31.
COUNTY: Trinity
FILE NAME: Bureau of Reclamation, Trinity River Restoration Program – Indian Creek Rehabilitation Site

BY THE EXECUTIVE OFFICER:

1. On April 10, 2007, the U.S. Bureau of Reclamation, Trinity River Restoration Program, filed an application for water quality certification (certification) under section 401 of the Clean Water Act (33 U.S.C. § 1341) with the California Regional Water Quality Control Board, North Coast Region (Regional Water Board) for activities associated with the Indian Creek Rehabilitation Site (project) on the Trinity River, Trinity County. The purpose of the project is to selectively remove fossilized river edge berms, provide revegetation and conditions for the reestablishment and survival of native riparian vegetation, and recreate alternate point bars and complex fish habitat similar in form to the habitat that existed prior to construction of Lewiston Dam. The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on May 17, 2007, and posted information describing the project on the Regional Water Board's website. We did not receive any public comments on this project.
2. Development of fossilized riparian berms along the Trinity River is associated with the typical low flows the Trinity River has experienced since flow releases have been regulated following completion of the Trinity Dam and Lewiston Dam in 1964. Fossilized riparian berms are anchored by extensive root systems and consolidated sand deposits. These berms have degraded the salmonid habitat and limited the

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habitat diversity by confining the channel and impeding the natural geomorphic processes typical of an alluvial river channel. The project emphasizes the selective removal of fossilized riparian berms.

3. Removing the fossilized berms and associated vegetation, in conjunction with excavation activities at other strategic locations, is intended to reconnect the river with the floodplain at intermediate flows (300 to 6,000 cubic feet per second) and improve aquatic habitat over a wide range of intermediate flows. The excavation activities are designed to promote natural alluvial processes that are necessary for the restoration and maintenance of a river form that will provide suitable rearing habitat for anadromous salmonids, reestablish natural fisheries and geomorphic processes that existed in the river prior to completion of the dams, and will reduce adverse impacts to adjacent infrastructure by anticipated high flow releases from Lewiston Dam.
4. The Indian Creek habitat rehabilitation area is located within an approximately 2.8-mile section of the mainstem Trinity River between the Highway 299 Bridge in Douglas City and the intersection of Steelbridge Road and Highway 299. The primary purpose of the project is to provide increased juvenile salmonid rearing habitat on the mainstem Trinity River and to reduce flow impacts to homes and other human improvements located adjacent to the river from release of fishery restoration flows from Lewiston Dam of up to 11,000 cubic feet per second. The project will improve salmonid habitat in the mainstem Trinity River by removing fossilized riparian berms and restoring alluvial processes to the river.
5. Rehabilitation activities are planned at twenty discrete activity areas within the site boundary. New and existing roads will be used to access the project activity areas that include riverine areas, upland areas, tailings removal and processing areas, access areas, and construction support areas. Excavation of alluvial material from riverine and tailings areas is expected to result in the removal of a maximum of 140,000 cubic yards of material. Some of the excavated alluvial material and dredge tailings piles will be processed onsite for future use as spawning gravel. Depending on the quality of the source material, a gravel washing process may be necessary. Processed material will be hauled to several stockpile locations for future use in spawning gravel placement projects. Upland areas within the project boundary will be used for disposal of excess excavated material.
6. The project activities are scheduled to begin during the summer of 2007 and continue over the next five year period. A temporary bridge will be installed over Weaver Creek to provide access to some of the activity areas. The temporary bridge will be installed during the first year of the project after July 15 and after flows in Weaver Creek have adequately subsided. The temporary bridge will be removed prior to any flood flows that may reach the low chord of the bridge. If removal of the temporary bridge is necessary, the bridge may be replaced after flows subside. Rehabilitation activities in the active channel will only be conducted between July 15 and September 15 each year. Activities conducted after September 15 will include earthwork, gravel processing, and revegetation. Revegetation activities will generally take place between November and February.
7. The federal Clean Water Act (33 U.S.C. §§ 1251-1387) was enacted "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." (33 U.S.C. § 1251(a).) Section 401 of the Clean Water Act (33 U.S.C. §1341) requires

every applicant for a federal license or permit which may result in a discharge into navigable waters to provide the licensing or permitting federal agency with certification that the project will be in compliance with specified provisions of the Clean Water Act, including water quality standards and implementation plans promulgated pursuant to section 303 of the Clean Water Act (33 U.S.C. § 1313). Clean Water Act section 401 directs the agency responsible for certification to prescribe effluent limitations and other limitations necessary to ensure compliance with the Clean Water Act and with any other appropriate requirement of state law. Section 401 further provides that state certification conditions shall become conditions of any federal license or permit for the project.

8. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification," which requires compliance with all conditions of this water quality certification.
9. The project is expected to result in 13.4 acres of temporary impacts to the river channel and banks, and 0.082 acres of temporary impacts to riparian wetlands. Impacts to waters of the United States are considered temporary because the project does not include installation of any permanent structures or fill and the primary purpose is to restore natural alluvial processes and floodplain functions to the river. The project has been designed to avoid and minimize adverse impacts and permanent impacts to waters of the United States. Mitigation measures to avoid significant environmental effects are incorporated as conditions of this permit.
10. Compensatory mitigation is not required for the project. Areas within the restored floodplain and along the river channel are expected to convert to riparian wetlands as the natural alluvial processes are restored to the channel. Native vegetation is expected to naturally replace affected riparian vegetation. The applicant will also replant impacted riparian vegetation with a diverse assortment of native vegetation. Non-compensatory mitigation measures include the use of Best Management Practices and implementation of a mitigation monitoring and reporting program.
11. The applicant has applied to the United States Army Corps of Engineers for authorization to perform the project under Nationwide Permit Number 27, pursuant to Clean Water Act, section 404.
12. The applicant has applied to California Department of Fish & Game for a Lake or Streambed Alteration Agreement.
13. On May 1, 2007, the Trinity County Planning Department certified an Environmental Impact Report (EIR) (SCH No.2006012101) for the project in order to comply with CEQA. The Regional Water Board has considered the environmental document and any proposed changes incorporated into the project or required as a condition of approval to avoid significant effects to the environment.

Receiving Water: Trinity River in the Douglas City Hydrologic Subarea 106.31.

Filled or Excavated Area: Area Temporarily Impacted: 13.4 acres of river channel and 0.082 acre of riparian wetlands
Area Permanently Impacted: none

Total Linear Impacts: Length Temporarily Impacted: 2.8 miles
 Length Permanently Impacted: none

Dredge Volume: 140,000 cubic yards

Latitude/Longitude: 40.66164 N/122.91246 W

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Indian Creek Rehabilitation Site project (WDID No. 1A07042WNTR), as described in the application, will comply with sections 301, 302, 303, 306 and 307 of the Clean Water Act, and with applicable provisions of state law, provided that Reclamation complies with the following terms and conditions:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330 and title 23, California Code of Regulations, section 3867.
2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to title 23, California Code of Regulations, section 3855, subdivision (b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. This certification is conditioned upon total payment of any fee required under title 23, California Code of Regulations, section 2200, and owed by the applicant.
4. Reclamation shall notify the Regional Water Board prior to the commencement of ground disturbing activities, with details regarding the construction schedule, in order to allow staff the opportunity to be present onsite during construction, and to answer any public inquiries that may arise regarding the project.
5. The conditions and monitoring and reporting requirements detailed in Appendix 1 – Mitigation Monitoring and Reporting Program (MMRP) in the Final EIR are hereby incorporated by reference and are conditions of approval of this certification. Notwithstanding any more specific conditions in this certification, Reclamation shall comply with all mitigation measures identified in the MMRP.
6. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this Order, shall be allowed to enter into or be placed where it may be washed by rainfall into waters of the State. When operations are completed, any excess material or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream.

7. All activities and BMPs shall be implemented according to the submitted application and the conditions in this certification.
8. Reclamation shall provide a copy of this Order to all contractors and all subcontractors conducting the work, and require that a copy of the Order remain in their possession at the work site. Reclamation shall be responsible for work conducted by its contractors or subcontractors.
9. If, at any time, an unauthorized discharge to surface water (including wetlands, rivers or streams) occurs, or any water quality problem arises, Reclamation shall cease the associated project activities immediately until adequate BMPs are implemented. The Regional Water Board shall be notified promptly and in no case more than 24 hours after the unauthorized discharge or water quality problem arises.
10. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete the project.
11. Prior to implementing any change to the project that may have a significant or material effect on the findings, conclusions, or conditions of this Order, the Applicant shall obtain the written approval of the Regional Water Board Executive Officer.
12. All project work shall be conducted as described in this Order and in the application submitted by the Applicant. If the Regional Water Board is not notified of a significant alteration to the project, it will be considered a violation of this Order, and the Applicant may be subject to Regional Water Board enforcement actions.
13. The Regional Water Board may add to or modify the conditions of this Order, as appropriate, to implement any new or revised water quality standards and implementation plans adopted and approved pursuant to the Porter-Cologne Water Quality Control Act or Section 303 of the Clean Water Act.
14. The Applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
15. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under applicable State or federal law. For the purposes of section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification. In response to a suspected violation of any condition of this certification, the Regional Water Board may require the holder of any federal permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Regional Water Board deems appropriate, provided that the burden, including costs, of the reports shall bear a reasonable

relationship to the need for the reports and the benefits to be obtained from the reports. In response to any violation of the conditions of this certification, the Regional Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

16. In the event of any change in control of ownership of land presently owned or controlled by Reclamation, Reclamation shall notify the successor-in-interest of the existence of this Order by letter and shall forward a copy of the letter to the Regional Water Board at the above address.

To discharge dredged or fill material under this Order, the successor-in-interest must send to the Regional Water Board Executive Officer a written request for transfer of the Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, and the address and telephone number of the person(s) responsible for contact with the Regional Water Board. The request must also describe any changes to the project proposed by the successor-in-interest or confirm that the successor-in-interest intends to implement the project as described in this Order.

17. Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited to and all proposed mitigation being completed in strict compliance with the applicant's project description, and b) compliance with all applicable requirements of the Water Quality Control Plan for the North Coast Region (Basin Plan).
18. The authorization of this certification for any dredge and fill activities expires on October 15, 2011. Conditions and monitoring requirements outlined in this certification are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

If you have any questions or comments please call Dean Prat at (707) 576-2801.

Catherine E. Kuhlman
Executive Officer

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Original to: Mr. Douglas Schleusner, Trinity River Restoration Program, P.O. Box 1300, Weaverville, CA 96093

Copies to: U.S. Army Corps of Engineers, District Engineer, P.O. Box 4863, Eureka, CA 95502
Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Functions, 1455 Market Street, San Francisco, CA 94103-1398

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